

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 1363

Introduced by Senator Runner

February 19, 2010

An act to amend Section 17405 of, and to add Section 17405.5 to, the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

SB 1363, as amended, Runner. Escrow agents.

Existing law, the Escrow Law, provides for the licensure and regulation of escrow agents by the Commissioner of Corporations. Under that law, the commissioner is authorized to conduct an indoctrination or preliminary examination, or both, of any new licensee within one year of the issuance of the license, and an inspection and examination within 2 years of the issuance of the license.

This bill would require the commissioner to conduct these examinations with respect to new licensees and would also apply these provisions to a change of ownership of a licensee. The bill would also require *an officer, director, trustee, or employee of a licensee, or the licensee's managers and shareholders who has access to money or negotiable securities of the licensee, as specified*, to complete a course in escrow management ~~designated~~ *conducted* by the commissioner, within 12 months following the issuance of a new license or a change of ownership.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17405 of the Financial Code is amended
2 to read:

3 17405. (a) The business, accounts and records of every person
4 performing as an escrow agent, whether required to be licensed
5 under this division or not, are subject to inspection and examination
6 by the commissioner at any time without prior notice. The
7 provisions of this section shall not apply to persons specified in
8 Section 17006.

9 (b) Any person subject to this division shall, upon request,
10 exhibit and allow inspection and copying of any books and records
11 by the commissioner or his or her authorized representative.

12 (c) (1) The commissioner shall conduct an examination of each
13 licensed escrow agent as described in subdivision (a) as often as
14 the commissioner deems necessary and appropriate, but not less
15 than once every 48 months.

16 (2) The examination shall be conducted for the 12-month period
17 immediately preceding the date that the examination is commenced
18 unless the commissioner finds, based on information uncovered
19 in the examination or in the most recent independent audit report,
20 that the examination should be extended beyond the 12-month
21 period.

22 (3) In determining how often an examination shall be conducted,
23 the commissioner may consider each licensed escrow agent's
24 compliance with the requirements set forth in this division and
25 other factors the commissioner may by rule or order designate.

26 (4) This subdivision shall apply only to examinations
27 commenced after the effective date established by the rule or order
28 of the commissioner for the factors described in paragraph (3).

29 (d) Notwithstanding subdivision (c), the commissioner shall
30 conduct an indoctrination or preliminary examination, or both,
31 under this section of any new licensee or of a licensee that has a
32 change in ownership within one year of the issuance of the license
33 or of the change of ownership under this division, and an
34 examination described in subdivision (a) within two years of the
35 issuance of the license or of the change of ownership under this
36 division.

37 SEC. 2. Section 17405.5 is added to the Financial Code, to
38 read:

1 ~~17405.5. A licensee, or the licensee's managers and~~
2 ~~shareholders, shall, within 12 months following the issuance of a~~
3 ~~new license or a change of ownership, complete a course in escrow~~
4 ~~management designated by the commissioner.~~

5 *17405.5. (a) Any officer, director, trustee, or employee of an*
6 *escrow agent, whether or not compensated, who has access to*
7 *money or negotiable securities belonging to the escrow agent in*
8 *the regular discharge of his or her duties, or any person who may*
9 *draw checks upon the escrow agent or upon the trust funds of the*
10 *escrow agent in the regular discharge of his or her duties shall,*
11 *within 12 months of the issuance of a new license to that escrow*
12 *agent, or a change of ownership involving that escrow agent,*
13 *complete a course in escrow management conducted by the*
14 *commissioner.*

15 *(b) The commissioner may charge persons described in*
16 *subdivision (a) a reasonable fee, as determined by the*
17 *commissioner, to cover the costs of providing courses in escrow*
18 *management.*